

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Gas Company (U904G) for Authority to increase its Gas Revenue Requirements to Reflect its Accomplishments for Demand-Side Management Program Years 1995 and 1997, Energy Efficiency Program Year 1999, and Low-Income Program Years 1998 and 1999 in the 2000 Annual Earnings Assessment Proceeding ("AEAP").

Application 00-05-002

And Related Matters.

Application 00-05-003
Application 00-05-004
Application 00-05-005
Application 01-05-003
Application 01-05-009
Application 01-05-017
Application 01-05-018
Application 02-05-002
Application 02-05-003
Application 02-05-005
Application 02-05-007

**ADMINISTRATIVE LAW JUDGE'S RULING
AND NOTICE OF A FURTHER PREHEARING CONFERENCE
TO SCHEDULE REVIEW OF EARNINGS CLAIMS FOR
PRE-1998 ENERGY EFFICIENCY PROGRAMS**

At the direction of the Commission in Decision (D.) 03-04-055, Energy Division has conducted an independent review of retention and persistence

studies, via a contract with Skumatz Economic Research Associates, Inc. (SERA).¹ These studies measure the retention and persistence of energy savings from measures installed under the programs administered by Pacific Gas & Electric Company, San Diego Gas and Electric Company, Southern California Edison Company and Southern California Gas Company, collectively referred to as “the utilities.” The utilities have used the results of these retention and persistence studies to support their earnings claims for pre-1998 energy efficiency programs filed in this consolidated Annual Earnings Assessment Proceeding (AEAP).

As discussed in prior rulings, consideration of the utilities’ pre-1998 earnings claims filed in this consolidated AEAP docket was deferred until the Commission completed its evaluation of whether to modify the pre-1998 shared-savings mechanism. By D.03-10-057, the Commission determined that the shared-savings incentive mechanism adopted in D.94-10-059 should not be reconsidered, and Rulemaking 91-08-003/Investigation 91-08-002 should not be reopened for that purpose. In doing so, the Commission stated that:

“[N]othing in today’s decision is intended to preclude us from disapproving or modifying the utility profits associated with this incentive mechanism that the utilities submit in pending and future AEAPs, based on our verification of savings. All profits claimed by the utilities are subject to verification, consistent with our adopted measurement and evaluation protocols.”²

SERA has recently completed its review of the savings retention and persistence studies related to the pre-1998 earnings claims filed in this docket,

¹ SERA’s findings on Technical Degradation Factors will be published in a separate report in the coming weeks.

² D.03-10-057, mimeo., p. 3.

and has submitted its June 30, 2004 final report to Energy Division. That report is now posted on the Commission's website at:

<http://www.cpuc.ca.gov/static/industry/electric/energy+efficiency/rulemaking/index.htm>

With the completion of this report, we can now proceed to schedule our review of the utilities' earnings claims for pre-1998 energy efficiency programs.

For that purpose, a further prehearing conference (PHC) is scheduled in this proceeding, as directed below. The purpose of the PHC is to determine how best to address the utilities' earnings claims for pre-1998 energy efficiency programs in light of SERA's findings. This could involve scheduling further comment or testimony on the utilities' earnings claims and SERA's report, and proceeding directly to evidentiary hearings. Alternatively, the utilities and interested parties may prefer to first confer on the issues raised by the report and develop a joint proposal for resolving the "earnings at risk" presented in that document, prior to scheduling further comments or testimony. Other procedural approaches may be appropriate. I encourage the utilities and interested parties to communicate on these issues prior to the PHC.

A new service list for this proceeding will be established at the PHC. As of the effective date of this ruling, service of all filings and testimony in this proceeding shall be accomplished using the attached electronic service protocols.

IT IS RULED, that:

1. A further prehearing conference (PHC) will be held in this consolidated proceeding on Friday, September 24, 2004 at 10:00 a.m. in the Commission's Courtroom, 505 Van Ness Avenue, San Francisco, California. A new service list for this consolidated proceeding will be established at the PHC. Until that time, the current service list will serve as the temporary service list for this consolidated proceeding.

2. PHC statements are due by September 15, 2004, and should be filed at the Commission's Docket Office and served according to the electronic service protocols attached to this decision. PHC statements should address the procedural schedule for addressing the utilities' pre-1998 earnings claims in this proceeding in light of SERA's report, including the need for evidentiary hearings.

3. Effective today, all parties shall use the electronic service protocols attached to this ruling.

Dated August 17, 2004, at San Francisco, California.

/s/ MEG GOTTSTEIN by LTC

Meg Gottstein
Administrative Law Judge

ATTACHMENT

ELECTRONIC SERVICE PROTOCOLS

These electronic service protocols are applicable to all “appearances” and individuals/organizations on the “state service” list that serve comments or other documents in this proceeding.

Party Status in Commission Proceedings

In accordance with Commission practice, by entering an appearance at a hearing or by other appropriate means, an interested party or protestant gains “party” status. A party to a Commission proceeding has certain rights that non-parties do not have. For example, a party has the right to participate in evidentiary hearings, file comments on a proposed decision, and appeal a final decision. A party also has the ability to consent to waive or reduce a comment period, and to challenge the assignment of an Administrative Law Judge (ALJ). Non-parties do not have these rights, even though they are included on the service list for the proceeding and receive copies of some or all documents.

Non-parties may participate in this proceeding under either the “state service” or “information only” categories. Commission staff members, divisions or branches, Legislators or their staff members, and state agencies or their staff members may participate as under the state service category. They will be allowed to file comments or other documents on issues in this rulemaking, at the direction of the assigned ALJ(s) or Assigned Commissioner.

Those who request to be categorized as “information only” will receive all Commission-generated notices of hearings, rulings proposed decisions and Commission decisions at no charge. However, individuals on the “information only” list will not receive copies of pleadings or other filings in this proceeding,

and may not comment on the issues in this proceeding, unless they later apply for party status.

Service of Documents by Electronic Mail

For the purposes of this proceeding, all individuals in appearance and state service categories shall serve documents by electronic mail, and in turn, shall accept service by electronic mail. In some circumstances, however, electronic mail addresses may not be available. In those circumstances, paper copies shall be served by U.S. mail. In addition, paper copies shall be served on the assigned ALJ(s) and Assigned Commissioner.

Notice of Availability

If a document, including attachments, exceeds 75 pages, parties may serve a Notice of Availability in lieu of all or part of the document, in accordance with Rule 2.3(c) of the Commission's Rules of Practice and Procedure. However, paper copies of that document shall be served on the assigned ALJ(s) and Assigned Commissioner.

Filing of Documents

These electronic service protocols govern service of documents only, and do not change the rules regarding the tendering of documents for filing. Documents for filing must be tendered in paper form, as described in Rule 2, et. seq., of the Commission's Rules of Practice and Procedure.

Electronic Service Standards

As an aid to review of documents served electronically, appearances should follow these procedures:

- Merge into a single electronic file the entire document to be served (e.g., title page, table of contents, text, attachments, service list).

- Attach the document file to an electronic note.
- In the subject line of the note, identify the proceeding number; the party sending the document; and the abbreviated title of the document.
- Within the body of the note, identify the word processing program used to create the document if anything other than Microsoft Word. (Commission experience is that most recipients can readily open documents sent in Microsoft Word 6.0/95.)

If the electronic mail is returned to the sender, or the recipient informs the sender of an inability to open the document, the sender shall immediately arrange for alternative service (regular U.S. mail shall be the default, unless another means—such as overnight delivery—is mutually agreed upon).¹

Parties should exercise good judgment regarding electronic mail service, and moderate the burden of paper management for recipients. For example, if a particularly complex matrix or cost-effectiveness study with complex tables is an attachment within a document mailed electronically, and it can be reasonably foreseen that most parties will have difficulty printing the matrix or tables, the sender should also serve paper copies by U.S. mail, and indicate that in the electronic note.

¹ Due to the vast volumes of electronic service sent from our Process Office, this requirement does not extend to the Commission's service of rulings, decisions, etc. It is the responsibility of each person or organization on the service list to promptly inform the Process Office of any changes to your email address. All interested parties should also check the Commission's website periodically, where rulings and decisions in this proceeding will be posted as close to the time of service as possible.

Obtaining Up-to-Date Electronic Mail Addresses

An up-to-date service list of electronic mail addresses is posted by Process Office on the web at:

http://www.cpuc.ca.gov/published/service_lists/sl_index.htm

To view and copy the electronic addresses for a service list, download the comma-delimited file, and copy the column containing the electronic addresses.

The Commission's Process Office periodically updates service lists to correct errors or to make changes at the request of parties and non-parties on the list. Parties should go to the website listed above (or obtain paper copy from the Process Office) before serving a document. Parties should not "bookmark" the web page for future use, since it may not reflect the most up to date listings on the service list.

Pagination Discrepancies in Documents Served Electronically

Differences among word-processing software can cause pagination differences between documents served electronically and print outs of the original. (If documents are served electronically in PDF format, these differences do not occur, although PDF files can be especially difficult to print out.) For the purposes of reference and/or citation (e.g., at the Final Oral Argument, if held), parties should use the pagination found in the original document.

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties who have provided an electronic mail address, this day served a true copy of the original attached Administrative Law Judge's Ruling and Notice of a Further Prehearing Conference to Schedule Review of Earnings Claims for Pre-1998 Energy Efficiency Programs on all parties of record in this proceeding or their attorneys of record.

Dated August 17, 2004, at San Francisco, California.

/s/ ELIZABETH LEWIS

Elizabeth Lewis

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.